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February 3, 2005

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BY FACSIMILE

The Honorable Patti B. Saris
United States District Court for the
District of Massachusetts
John Joseph Moakley Courthouse
One Courthouse Way
Boston, MA 02210

Re: In re Pharmaceutical Industry Average Wholesale Price Litigation; Civil Action No. 01-12257-PBS, MDL No. 1456

Dear Judge Saris:

The Track 1 Defendants respectfully request a telephone conference with Your Honor as soon as practicable to discuss critical scheduling issues that have arisen in the last several days.

Most importantly, we are concerned about the schedule for filing of liability expert reports. Under Case Management Order No. 10 ("CMO 10"), Plaintiffs' liability expert reports were due on Monday, January 31, 2005, but the reports have not yet been served. Although the Court, in its October 20, 2004 Order, extended fact discovery beyond the existing January 30, 2005 deadline, the Court did not otherwise alter the dates set forth in CMO 10. Each day of delay in the filing of the Plaintiffs' reports further compromises the Track 1 Defendants' ability to serve their own expert reports which, absent a change in the schedule, are due on February 28, 2005. In addition to the expert report issue, we also wish to discuss the scheduling implications for oral argument on February 10 of the report that Professor Berndt is expected to complete during the week of February 7. In light of the time constraints relating to these matters, the issues are not amenable to resolution through normal motion practice.

We understand that Plaintiffs' counsel are agreeable to telephone conference with Your Honor. We are available at the Court's convenience.

Sincerely,

A handwritten signature in cursive script that reads "John T. Montgomery".

John T. Montgomery

The Honorable Patti B. Saris

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JTM:epc

cc: All Counsel of Record (via Verilaw)